

Stationary Engineers, Local 39, International Union of Operating Engineers, AFL-CIO (Kaiser Foundation Hospitals) and Robert J. Monroe.
Cases 32-CB-1193 and 32-CG-17

21 October 1983

DECISION AND ORDER

**BY CHAIRMAN DOTSON AND MEMBERS
HUNTER AND DENNIS**

On 29 March 1983 Administrative Law Judge Michael D. Stevenson issued the attached decision. The Respondent filed exceptions and a supporting brief.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has considered the decision and the record in light of the exceptions and brief and has decided to affirm the judge's rulings, findings,¹ and conclusions and to adopt the recommended Order.

ORDER

The National Labor Relations Board adopts the recommended Order of the administrative law judge and hereby orders that the Respondent, Stationary Engineers, Local 39, International Union of Operating Engineers, AFL-CIO, its officers, agents, and representatives, shall take the action set forth in the Order.

¹ In agreeing with the judge's conclusion that the Respondent violated Sec. 8(g) of the Act by failing to provide the "date and time" of its intention to honor the picket line of another union, we find it unnecessary to pass on the judge's discussion of the effect that *Greater New Orleans Artificial Kidney Center*, 240 NLRB 432 (1979), had on prior case law as the unique factual situation in *Greater New Orleans* in no way resembles the situation here. See, e.g., the analysis in *Hospital and Institutional Workers' Union Local 250 (Affiliated Hospitals of San Francisco)*, 255 NLRB 502 at 504-505 (1981), which more closely parallels the situation here regarding necessary compliance with Sec. 8(g). We further reaffirm our adherence to *Service Employees Local 200 (Eden Park Nursing Home)*, 263 NLRB 400 (1982).

DECISION

STATEMENT OF THE CASE

MICHAEL D. STEVENSON, Administrative Law Judge: This case was tried before me at Oakland, California, on January 17, 1983,¹ pursuant to a complaint issued by the Regional Director for Region 32 of the National Labor Relations Board on August 27, and which is based on charges filed by Robert J. Monroe (the Charging Party) on June 3 (Case 32-CB-1193) and July 1 (Case 32-CG-17). The complaint alleges that Stationary Engineers Local 39, International Union of Operating Engineers, AFL-CIO (Respondent), has engaged in certain viola-

tions of Section 8(b)(1)(A) and Section 8(g) of the National Labor Relations Act.

Issues

(1) Whether Respondent gave adequate written notice to the Employer, Kaiser Foundation Hospitals, of its intention to honor the picket lines of another union, then engaged in a lawful strike against the Employer.

(2) Whether Respondent violated the Act by threatening its members with disciplinary action if they refused to participate in an unprotected sympathy strike, and by actually fining certain members for that same reason.

All parties were given full opportunity to participate, to introduce relevant evidence, to examine and cross-examine witnesses, to argue orally, and to file briefs. Briefs, which have been carefully considered, were filed on behalf of the General Counsel and Respondent.

Upon the entire record of the case, and from my observation of the witnesses and their demeanor, I make the following

FINDINGS OF FACT

I. THE EMPLOYER'S BUSINESS

Respondent admits that the Employer is a California corporation operating hospitals in Hayward and Oakland, California, and further admits that the Employer's annual gross volume of business exceeds \$1 million, of which \$50,000 was received from the Medi-Care program. Accordingly, Respondent admits, and I find, that the Employer is a health care institution within the meaning of Section 2(14) of the Act and engaged in commerce and in an industry affecting commerce within the meaning of Section 2(6) and (7) of the Act.²

II. THE LABOR ORGANIZATION INVOLVED

Respondent admits, and I find, that it is a labor organization within the meaning of Section 2(5) of the Act.

III. THE ALLEGED UNFAIR LABOR PRACTICES

A. The Facts

On or about February 15, Office and Professional Employees Union, Local 29, struck the Employer and, pursuant to said strike, picket lines were present at the Employer's hospitals in Oakland and Hayward. This strike ended on or about March 14, and employees returned to work on the following day. There is no issue in this case with respect to either the strike or the picket lines of Local 29.

At 12:01 a.m., March 4, Respondent began to honor the picket lines of Local 29. This was done at the request of Alameda Central Labor Council, an association of local unions which included both Local 29 and Respondent. A few days prior to February 1, the Alameda Central Labor Council had called a meeting in Oakland, California, of all affected unions. Among the persons at-

² Respondent denied in its answer, but admitted at hearing (Resp. br. pp. 38-39) that Kaiser Foundation Hospitals, the Employer, is a health care institution within the meaning of Sec. 2(14) of the Act.

¹ All dates herein refer to 1982 unless otherwise indicated.

tending this meeting were two individuals who testified at the hearing: Tony White, a labor relations specialist for the Employer, and Michael Seitz, a business representative for Respondent assigned to, among other locations, Kaiser Foundation Hospitals in Oakland. The witnesses were called by the General Counsel and Respondent respectively. Apparently it was decided at the Oakland meeting that member unions of the Alameda Central Labor Council would be respecting the picket lines of Local 29. Moreover, Seitz specifically told White at this meeting that Respondent would be respecting the picket lines. No effective dates were given.

The Employer had recently been struck by another union, Engineers & Scientists of California, Marine Engineers Beneficial Association (ESC MEBA). This union, also a member of the Central Labor Council, represented units of optometrists and of medical technologists at Kaiser. Their strike began on January 4, and ended on or about March 3. While that strike was in progress as well as the strike of Local 29, other unions, including Respondent, sent notice to the Employer of their intent to honor the picket lines of the striking unions. Indeed, after the ESC MEBA strike was settled, the members of that union did not return to work; rather, they respected the picket lines of then striking Local 29.

No issue is presented in this case as to the sufficiency of Respondent's notice to honor the picket lines of ESC MEBA. Nor does the Employer complain of Respondent's notices as respects Local 29. Notwithstanding the failure of the Employer to file charges in this case, the General Counsel called among its witnesses two nonbargaining unit supervisors employed by Kaiser. They are Robert Harrison and George Stevenson, the building and grounds supervisors for Kaiser Foundation Hospitals at Hayward and Oakland, respectively. Some of the testimony given by these witnesses conflicted with the testimony of Respondent's business representatives for the two hospitals. To the extent that the testimony in general, and the conflicts in particular, of all four witnesses is relevant and material, it will be detailed below. For now it suffices to say that, subsequent to March 4, a number of bargaining unit members employed by Kaiser at the two locations mentioned above disregarded the instructions of Respondent's business representatives and repeatedly crossed the picket lines of Local 29 to work. These persons, who were also members of Respondent, were called to account for their conduct, and, with one exception, admitted their guilt.

None of the alleged discriminatees filed charges with the Board, nor, as I noted above, did the Employer. Instead, Robert J. Morse, now chief engineer at the Employer's Hayward hospital, filed charges. As of March, Morse was a stationary engineer at the Employer's Fremont, California, facility. This is a satellite or clinic facility located in the southeastern corner of the Bay Area. Though a charging party, Monroe was not called as a witness by the General Counsel. Rather, after the General Counsel rested, he was called as an adverse witness by Respondent. Monroe testified that, during the Local 29 strike, he worked at Fremont each and every day as scheduled, crossing the picket lines each time. He never

received instructions from Respondent as to what he should or should not do.

On May 4, Respondent sent to Monroe a letter which reads as follows:

Dear Mr. Monroe:

It has been brought to the attention of the Executive Board of Local #39 that you failed to comply with the orders issued from the Business Manager through his agents during the recent strike at Kaisers' [sic] facilities.

You are therefore requested to appear at the next Local #39 Executive Board meeting that will be held on Saturday, May 22, 1982, at the Union Hall, 337 Valencia Street, San Francisco, at 10:00 A.M. The purpose of this appearance is a pre-trial hearing that will be held in accordance with Article XVII, Section 1 of the Local Union By-Laws.

Any evidence that you have that will disprove the charges brought against you should be brought to the pre-trial hearing.

Very truly yours,

/s/ Art Viat
Recording Corresponding Secretary
SE#39 afl/cio
AV:ea [G.C. Exh. 9.]

Identical letters were sent to certain members of Respondent's bargaining units at Hayward and Oakland. On May 22, at its union hall in San Francisco, Respondent conducted an inquiry or investigation as to which employees crossed the picket lines of Local 29. Unlike those employee-members listed below, Monroe was never fined, nor even brought up on charges.

B. Analysis and Conclusions

I begin by noting that even though Monroe was never convicted nor even charged with violating union rules, this does not in any way affect his right to file charges in this case.³ The simple fact is that anyone for any reason may file charges with the Board.⁴ It is then the responsibility of the office of the General Counsel to investigate the charges to determine which charges it believes to have merit. In this case the General Counsel claims that the charges filed by Monroe have merit. I agree with this contention.

All strike and picketing activity directed against a health care facility such as the Employer here is subject to 10 days' advance notice to the Employer and the FMCS as required by Section 8(g) of the Act.⁵ The

³ In its brief, Respondent refers on three separate occasions (Resp. br. pp. 1, 4 fn. 1, 8) to the fact that Monroe was never actually charged nor fined. The purpose of these repeated references is unclear since Respondent does not make a legal argument based on this fact.

⁴ *NLRB v. Teamsters Local 364*, 274 F.2d 19, 25 (7th Cir. 1960); 29 CFR § 102.9 (1979). Moreover, as noted above, Monroe was at least threatened with charges by Respondent.

⁵ *Painters Local 452 (Henry C. Beck Co.)*, 246 NLRB 970 (1979). Sec. 8(g) reads as follows:

Continued

notice requirements of Section 8(g) apply to sympathy strikes by unions, even if the union's participation is occasional, and even if the union represents no employees at a given location.⁶

In the instant case, Respondent represents significant numbers of employees who were employed as stationary engineers. They are responsible for continuous, efficient, and safe operation of the boilers, air compressors, and other equipment important to the operation of the Employer's hospitals. Thus, Section 8(g) clearly applies to the case at bar.⁷ That is, Respondent's participation in the Local 29 strike generated expanded pressure on the Employer and posed additional threats to the Employer's ability to provide for the care and well-being of its patients.

Respondent sent two notices⁸ to Kaiser Foundation Hospitals.⁹ The notices read as follows:

KEN DALE
KAISER FOUNDATION HOSPITAL
PERMANENTE MEDICAL SERVICE
REGIONAL LABOR RELATIONS SUPERVISOR
1924 BROADWAY
OAKLAND CA 94604

THIS IS TO NOTIFY YOU THAT IF THE OFFICE AND PROFESSIONAL EMPLOYEES UNION LOCAL #29 STRIKE KAISER FOUNDATION HOSPITAL, THE PERMANENTE GROUP AND KAISER FOUNDATION HEALTH PLAN, THIS UNION INTENDS TO RESPECT PICKET LINES TO THE EXTENT PERMITTED BY LAW, AT THE

A labor organization before engaging in any strike, picketing, or other concerted refusal to work at any health care institution shall, not less than ten days prior to such action, notify the institution in writing and the Federal Mediation and Conciliation Service of that intention, except that in the case of bargaining for an initial agreement following certification or recognition the notice required by this subsection shall not be given until the expiration of the period specified in clause (B) of the last sentence of section 8(d) of this Act. The notice shall state the date and time that such action will commence. The notice, once given, may be extended by the written agreement of both parties.

⁶ *Service Employees Local 200 (Eden Park Nursing Home)*, 263 NLRB 400 (1982); *Hospital Employer District 1199 (Parkway Pavilion Healthcare)*, 222 NLRB 212 (1976), enf. denied 556 F.2d 558 (2d Cir. 1976).

⁷ It is important to understand the purpose of Sec. 8(g) as stated in *Retail Clerks Local 727 (Devon Gable Health Care Center)*, 244 NLRB 586, 587 (1979):

The purpose behind the 10-day notice provision is to provide health care institutions with sufficient time to make arrangements for continuing patient care during the labor dispute . . . [T]o assess the extent to which normal operations are likely to be disrupted, the health care institution is entitled under Section 8(g) to receive at least 10 days' notice from any labor organization which plans to begin picketing, engage in a strike, or work stoppage at a specific future time . . . Furthermore, the Act specifically requires that written notice also be given to the Federal Mediation and Conciliation Service where a labor organization plans to picket a health care facility.

⁸ The two notices are identical except that G.C. Exh. 8 also included a list of the Employer's facilities and addresses where picketing was likely to occur. Although 14 locations were listed, only 2, Hayward and Oakland, are in issue in this case.

⁹ With respect to Respondent's notice to FMCS, the General Counsel's theory is the same as its theory with respect to the Employer: i.e., that the notice did not state the precise date and time that the picketing or work stoppage was to commence. (Resp. br. at 95, Resp. Exhs. 9 and 10.) Accordingly, my finding that the notice to the Employer was deficient applies to the FMCS notice as well.

SAME TIMES, LOCATIONS AND PLACES AS SPECIFIED BY THE OFFICE AND PROFESSIONAL EMPLOYEES UNION LOCAL #29, AS NOTED ON THE ATTACHED LIST.

HARRY HANSON, BUSINESS REPRESENTATIVE
STATIONARY ENGINEERS LOCAL #39
337 VALENCIA STREET
SAN FRANCISCO, CALIFORNIA 94103 [G.C. Exhs. 7 and 8.]

The General Counsel contends that the notice is deficient in that the precise date and time of Respondent's work stoppage are not indicated. To resolve this issue, I turn to Board precedent.¹⁰

To begin, I note the lucid view of Section 8(g) as stated by the Board in *Parkway Pavilion Healthcare*, supra, 222 NLRB 212. There the Board stated,

In our opinion, the 8(g) notice requirement is clear and absolute. First, it is mandatory rather than discretionary—the statute provides that “a labor organization . . . shall” give written notice. Second, it applies regardless of the nature of the picketing involved—notice must be provided in advance of “any strike, picketing or other concerted refusal to work at any health care institution. . . .” Finally, Section 8(g) is devoid of any modifying language respecting the character of the picketing, its objectives, or the type of economic pressures generated.

It is our conclusion, therefore, that Congress intended that the 10-day notice provision of Section 8(g) be interpreted according to its literal meaning and, therefore, any strike, work stoppage, or picketing including sympathy picketing at the premises of a health care institution is violative of Section 8(g) unless proper notice of it has been served on the health care facility and the Federal Mediation and Conciliation Service by the labor organization involved.

The above view of Section 8(g) was later modified by the Board in the case of *Greater New Orleans Artificial Kidney Center*, 240 NLRB 432 (1979), where the concept of “substantial compliance” with Section 8(g) was approved. To ensure that no misunderstanding resulted, the Board specifically found in *Greater New Orleans* at 433 that the union¹¹ did not comply with the literal terms of

¹⁰ All or most cases dealing with issues raised by Sec. 8(g) involve the timeliness of the notice rather than its content. In computing time under the notice provisions of the Act, the Board counts the date of receipt as the first day and the day before the onset of the activity in question as the last. *Devon Gables Health Care Center*, supra, 244 NLRB at 587. Here the notice was received on February 24 and Respondent's picketing began on March 4. In spite of a seemingly inescapable conclusion of untimeliness based on mathematical calculation and striking factual similarity to the facts in *Devon Gables Health Care Center*, supra, I make no finding on the issue of the timeliness of the notice since it was never charged nor litigated. Moreover, at hearing, the General Counsel stated that the only issue was whether the notice was sufficient. (Resp. br. at 13, 95.)

¹¹ The Employer was the Respondent charged with failing to reinstate 10 striking employees on the grounds that because the Union had failed to give timely notice under Sec. 8(g), the employees were engaged in an unprotected strike.

Section 8(g) of the Act; yet the Board went on to find substantial compliance and ordered the strikers reinstated.

In this case, I find that there is neither literal nor substantial compliance. It is clear from reading the notice set forth above that literal compliance is not present. In *Hospital Employees District 1199-E (Federal Hill Nursing Center)*, 243 NLRB 23, 24 (1979), the Board recognized that a notice to a health care institution must contain a specific notice of the "date and time that such action [strike, picketing, or other concerted refusal to work] will commence."¹²

It is also clear that substantial compliance with Section 8(g) is not present, although this presents a closer question. To begin, Respondent's notice attempts to link its picketing to the same times, locations and places as Local 29. To the extent that Respondent attempts to rely on the notice of Local 29 as its own notice, such defense must be rejected.¹³ Moreover, Local 29's strike of the Employer began on or about February 15. Contrary to the notice given, Respondent did not begin to picket until March 4. Thus, I agree with General Counsel's contention (br. at 13) that Respondent's notice is entirely ambiguous.

Respondent presented evidence from a business agent named Michael Seitz that the Employer had actual notice of Respondent's intent to honor Local 29's picket line. According to Seitz, he attended a meeting sometime prior to February 1 at offices of the District Labor Council in Oakland. Also attending was a representative of the Employer named White. The former told the latter that Respondent intended to honor the picket lines of Local 29. Apart from the fact that the statute calls for written notice, the conversation between Seitz and White is too vague to have any value at all. Accordingly, I cannot find substantial compliance with Section 8(g) on this record.¹⁴

Similarly, other defenses offered by Respondent must be rejected. For example, Respondent claimed at hearing that it did no more or less than other unions which honored the picket lines of Local 29 and who were never charged by the General Counsel. Indeed, allegedly these other unions even used the same format for their notice as used by Respondent. Even if true, this contention is not sufficient to constitute a defense.¹⁵

¹² The Board went on to discuss under what circumstances the time and date specified could be extended. This discussion does not apply here since the notice never specified an initial time and place.

¹³ Respondent cannot rely on the earlier notice given by another labor organization as a basis for fulfilling its own statutory obligations. *Parkway Pavilion Healthcare*, supra, 222 NLRB at 212.

¹⁴ Compare the facts of the instant case to those in *Bio-Medical Applications of New Orleans*, supra, 240 NLRB at 435, where the union made reasonable efforts to give the Employer a 10-day written notice of its intent to strike, the employer had actual a 10-day notice of such intent, and the employer had the opportunity to and did make arrangements for the continuity of patient care. None of these factors is present in the instant case.

¹⁵ In *Service Employees Local 200 (Eden Park Nursing Home)*, supra, 263 NLRB at 401 fn. 6, the Board stated,

We find that the legality of the conduct of any other labor organization is not before us, and further is irrelevant to the question of whether Respondent engaged in unlawful conduct.

Much was made at hearing of the ability of the affected Kaiser facilities to care for their patients, during the time that Respondent was engaged in a sympathy strike. It is unnecessary to detail this aspect of the case since the General Counsel is not required to show actual disruption of health care services before an 8(g) violation may be shown. Thus, the 10-day notice requirement is designed to prevent actual disruptions of health care services and disruptions which may possibly occur.¹⁶ Respondent's failure to give proper 10-day notices to the Employer and to FMCS clearly led to a possible if not actual disruption. Accordingly, I find that Respondent violated Section 8(g) as alleged in the complaint by the General Counsel.

Having found that Respondent violated Section 8(g) of the Act, I next find that Respondent's sympathy strike was unprotected. Because the sympathy strike was unprotected, the statements made by Respondent's agents, Seitz, and another business representative named Herbruger, were unlawful. Basically, these statements threatened members with potential disciplinary action if they refused to honor the picket lines of Local 29. Also unlawful were certain written statements such as letters identical to that sent to Monroe, above (G.C. Exh. 9), and a notice posted at the Employer's facility at Hayward. (Resp. Exh. 12) These statements as well as Respondent's bringing of charges against and fining of its members for crossing Local 29's picket line violated Section 8(b)(1)(A) of the Act.

The following named members of Respondent were fined in the amounts indicated:¹⁷

Jesse Neasbitt	\$225
Juan Carranza	225
Gary Eliasbergh	375
Ernest Ford	375
Alphonso Monzone	225
Lawrence Mivven	225
Robert Osterdoch	300
Narcisco Padilla	225
Waldren Pierce	75
Kurt Rodman	375
Victor Sanchez	175
Gary Sherman	300
Alex Altez	195
William Bailey	375
Laslo Ferenczy	150
Shawn Hardridge	300
Manuel Hinojos	300
John Robertson	375

The parties stipulated that they believed that the individuals had paid the fines indicated. I will issue an appropriate recommended order and any discrepancies as to money paid or not will be resolved at the compliance stage of these proceedings.

¹⁶ *Painters Local 48 (St. Joseph Hospital)*, 243 NLRB 609, 611-612 (1979).

¹⁷ With the exception of Neasbitt, whose name was added by motion of the General Counsel at hearing, the other persons listed were alleged in par. 12 of the complaint. I further grant the motion of the General Counsel to delete the name of Danny Villas from said paragraph.

In conclusion, I note that all of the individuals listed above were fined after they admitted their guilt of having failed to respect the picket lines of Local 29 in violation of Respondent's unlawful orders. That they pled guilty cannot be considered a waiver of their right to claim a refund since the disciplinary proceedings were void ab initio for failure to comply with the requirements of Section 8(g). One other individual, R. C. Barnhouse, was convicted by Respondent of crossing the picket lines under the circumstances described above. He was then fined the sum of \$525 and apparently that sum was paid as well. Barnhouse will be added to the above list of persons who pled guilty to the charges against them.¹⁸

CONCLUSIONS OF LAW

1. Kaiser Foundation Hospital is engaged in commerce within the meaning of Section 2(6) and (7) of the Act.
2. Kaiser Foundation Hospital is a health-care institution within the meaning of Section 2(14) of the Act.
3. Respondent is a labor organization within the meaning of Section 2(5) of the Act.
4. By engaging in a work stoppage or sympathy strike at Kaiser Foundation Hospitals in Oakland and Hayward, California, without first giving adequate written notice to Kaiser Foundation Hospitals and to the Federal Mediation and Conciliation Service, Respondent has violated Section 8(g) of the Act.
5. By threatening disciplinary action against members who refused to participate in an unprotected sympathy strike and by bringing charges against and subsequently fining certain of its members for crossing picket lines when Respondent's work stoppage or sympathy strike was unprotected, Respondent violated Section 8(b)(1)(A) of the Act.
6. The foregoing unfair labor practices affecting commerce within the meaning of Section 2(6) and (7) of the Act.

THE REMEDY

Having found that Respondent has engaged in, and is engaging in, unfair labor practices in violation of Section 8(g) and Section 8(b)(1)(A) of the Act, I shall recommend that it be ordered to cease and desist therefrom, and to take certain affirmative action designed to effectuate the policies of the Act.

I shall further recommend that any and all fines collected from members listed below shall be refunded, with interest as provided in *Florida Steel Corp.*, 231 NLRB 651 (1977).¹⁹ If said fines have not been paid, I will recommend that Respondent be ordered not to collect them.

Jesse Neasbitt	\$225
Juan Carranza	225
Gary Eliasbergh	375
Ernest Ford	375
Alphonso Monzone	225

¹⁸ In preparing this decision, I have declined to recite evidence relating to prior notices sent out by Respondent in other sympathy strikes. The Board cases generally indicate that, under circumstances present in this case, unions are strictly liable for compliance with Sec. 8(g). Accordingly, issues as to Respondent's prior course of conduct as affecting its intent are simply not relevant.

¹⁹ See, generally, *Isis Plumbing Co.*, 138 NLRB 716 (1962).

Lawrence Mivven	225
Robert Osterdoch	300
Narcisco Padilla	225
Waldren Pierce	75
Kurt Rodman	375
Victor Sanchez	175
Gary Sherman	300
Alex Altez	195
William Bailey	375
Laslo Ferenczy	150
Shawn Hardridge	300
Manuel Hinojos	300
John Robertson	375
R. C. Barnhouse	525

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended

ORDER²⁰

The Respondent, Stationary Engineers, Local 39, International Union of Operating Engineers, AFL-CIO, its officers, agents, and representatives, shall

1. Cease and desist from
 - (a) Engaging in any strike, picketing, or any other form of work stoppage at Kaiser Foundation Hospitals, or any other employer in the health care industry, without satisfying the notice requirements of Section 8(g) of the Act.
 - (b) Threatening disciplinary action against members who refused to participate in an unprotected sympathy strike.
 - (c) Bringing charges against and subsequently fining members of Respondent who refused to participate in Respondent's sympathy strike at Kaiser Foundation Hospital when said sympathy strike was unprotected due to Respondent's failure to satisfy the notice requirements of Section 8(g) of the Act.
 - (d) Attempting to collect any of the fines from members listed in "The Remedy," if said fines have not yet been paid.
 - (e) In any like or related manner restraining or coercing members of Respondent Union.
2. Take the following affirmative action
 - (a) Refund with interest in the manner as specified in "The Remedy," any and all fines which have already been paid by members of Respondent as listed in "The Remedy."
 - (b) Notify, in writing, those members listed in "The Remedy" who have not paid their fines that said fines are void and will not be collected or accepted.
 - (c) Expunge from its files and records any reference to the charges, convictions, and fines, involving Respondent's members listed in "The Remedy" for failing to observe Respondent's unprotected sympathy strike at Kaiser Foundation Hospitals.
 - (d) Post at its offices and meeting hall in San Francisco, California, copies of the attached notice marked "Ap-

²⁰ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order herein shall, as provided in Sec. 102.48 of the Rules, be adopted by the board and all objections to them shall be deemed waived for all purposes.

pendix."²¹ Copies of the notice, on forms provided by the Regional Director for Region 32, after being duly signed by Respondent's authorized representative, shall be posted by Respondent immediately upon receipt and be maintained for 60 consecutive days in conspicuous places including all places where notices to members are customarily posted. Reasonable steps shall be taken by Respondent to ensure that said notices are not altered, defaced, or covered by any other material.

(e) Sign and deliver to the Regional Director for Region 32, sufficient copies of said notice, to be furnished by the Regional Director, for posting by the Employer herein at the Oakland and Hayward facilities, if said Employer is willing.

(f) Notify the Regional Director in writing within 20 days from the date of this Order what steps Respondent has taken to comply herewith.

²¹ If this Order is enforced by a Judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO MEMBERS
POSTED BY ORDER OF THE
NATIONAL LABOR RELATIONS BOARD
An Agency of the United States Government

WE WILL NOT engage in any strike or other work stoppage at Kaiser Foundation Hospitals, or any other employer in the health care industry, without satisfying the notice requirements of Section 8(g) of the Act.

WE WILL NOT threaten disciplinary action nor actually bring charges against our members nor fine them for re-

fusing to honor our sympathy strike at Kaiser Foundation Hospitals when said sympathy strike is unprotected due to our failure to satisfy the notice requirement of Section 8(g) of the Act.

WE WILL NOT attempt to collect any fines from members listed below which have not as yet been paid, where said fines relate to our unprotected sympathy strike at Kaiser Foundation Hospitals.

WE WILL NOT in any like or related manner restrain or coerce our members in the exercise of their rights under the Act.

WE WILL refund with interest any and all fines paid by our members as listed below:

R.C. Barnhouse	\$525
Juan Carranza	225
Gary Eliasbergh	375
Ernest Ford	375
Alphonso Monzone	225
Lawrence Mivven	225
Jesse Neasbitt	225
Robert Osterdoch	300
Narcisco Padilla	225
Waldren Pierce	75
Kurt Rodman	375
Victor Sanchez	175
Gary Sherman	300
Alex Altez	195
William Bailey	375
Laslo Ferenczy	150
Shawn Hardridge	300
Manuel Hinojos	300
John Robertson	375

STATIONARY ENGINEERS, LOCAL 39,
INTERNATIONAL UNION OF OPERATING
ENGINEERS, AFL-CIO